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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/520,111	01/03/2005	Bengt Bern	62642-P10008	9551
<div>20736 7590 04/04/2007 MANELLI DENISON &amp; SELTER 2000 M STREET NW SUITE 700 WASHINGTON, DC 20036-3307</div>			<div>EXAMINER WERT, JOSHUA P</div>	
			<div>ART UNIT 3709</div>	<div>PAPER NUMBER</div>
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		04/04/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/520,111

Applicant(s)

BERN ET AL.

Examiner

Josh Wert

Art Unit

3709

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 1/03/05.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 17-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 17-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 January 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>1/3/05, 2/23/07</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

Examiner acknowledges the amendments to claims filed on 01/03/05 including the cancellation of claims 1-16.

### ***Information Disclosure Statement***

1. The information disclosure statement filed 1/03/05 fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because applicant failed to submit English translations of the abstract for the last three documents; WO 0148580, EP 1197251, FR 2814964. It has been placed in the application file, but the information referred to therein has not been considered as to the merits. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609.05(a).

### ***Drawings***

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the electronic card refilling device in claim 25 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

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Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claim 25 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it

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pertains, or with which it is most nearly connected, to make and/or use the invention.

The only mention of the electronic refilling device is a recitation of the claim language within the specification. It is unclear what is meant by an electronic refilling device and the specification provides no structural or functional description of the device to enable one having ordinary skill in the art to make and use the invention as claimed.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 26 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. Claim 26 is a dependant claim of claim 24. Claim 26 recites all of the limitations in 24 in addition to new limitations. It is unclear whether claim 26 means to add the repeated limitations to claim 24 or if it is merely reciting them again. The examiner suggests either deleting the overlapping claim limitations in claim 26 or making claim 26 an proper independent claim.

### ***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 17, 18 21-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Sawano et al., US 2001/0039212 A1.

8. Sawano et al. disclose a handheld game console (12) in an electronic card game system (Figure 1 and 10) comprising a battery power supply (Paragraph 0059, line 5), a display (24), a processor (66), a memory (70, 72), an electronic card reader and writer (68), a receiving opening (38), a wired/wireless communication port (16) and a controller (26).

9. The electronic game card (40), in a system as described above, able to be inserted (Figure 1) comprising a memory comprising changeable data (76) where when the card is inserted it is read (Figure 12B; S51) and where it receives at least one new value (Paragraph 0059, back-up data).

10. The processor being configured for reading (Figure 12B, S51) first data (Figure 12B; Demo screen program in cartridge) from the electronic game card; receiving a second data from a second game console using the communication means (Figure 12; S53, negotiating), the second data comprising at least one game related attribute and at least one value (Paragraph 0104; transfer request command); generating a game result (Figure 12A; S56, using the transfer command to determine if the data is transferred and continuing in the flow chart); writing to the memory of the electronic game card (Paragraph 0059; back-up data); transmitting data (Figure 12; Synchronization) and displaying a first data (Figure 13; Demo screen).

***Claim Rejections - 35 USC § 103***

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sawano et al., in view of Itou et al. U.S. Patent 6,354,940.

13. Sawano et al disclose a game system where individual games are loaded on to electronic game cards. Sawano et al. also disclose that a possible type of game being used by the system is a battle type game (Figure 12B, S55). Itou et al. disclose a battle type game stored on a computer readable medium where the game result is based on a random function (Col. 9, lines 9-13) and where at least one new value is decreased (Col. 5, line 65 – Col 6. line 8). It would have been obvious at the time the invention was made to modify Sawano et al.'s game console to decrease at least one new value as taught by Itou et al. in order to increase the level of interest of a player in a battle type game.

14. Claims 27-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sawano et al. in view of Bull et al. U.S. Patent 6,530,841.

15. Sawano et al. substantially disclose the claimed invention of claims 27-32 as recited in the rejections for claims 17-26 above as a game system, possibly wireless (Figure 10) useable with a variety of games. Sawano et al. do not disclose a possible

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game being one in which the time and distance between game consoles is calculated and used to generate a result. Bull et al. disclose an electronic tag game where at least two players with electronic devices (cell phones) attempt to tag each other by maintaining a predetermined distance from their target for a set amount of time (Col. 2, lines 10-21). When a tag has been made, points are counted towards the player that tagged and against the player that was tagged (Figure 5). It would have been obvious to one at the time the invention was made to modify Sawano et al.'s device to control a game based on the time and distance between game consoles as taught by Bull et al. in order to increase the level of interest of a player in a multiplayer game.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Josh Wert whose telephone number is 571-270-1894. The examiner can normally be reached on 8:30-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Jackson can be reached on 571-272-4697. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

3/22/07  
JPW



GARY JACKSON  
SUPERVISORY PATENT EXAMINER

 3/28/07